United Nations E/C.19/2010/L.9 (Part I)

Economic and Social Council

Distr.: Limited
28 April 2010

Original: English

Permanent Forum on Indigenous Issues
Ninth session
New York, 19-30 April 2010

Draft report

Rapporteur: Ms. Paimaneh **Hasteh**

Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

A. Draft decisions

Draft decision 1
International expert group meeting on the theme "Indigenous peoples and forests"

The Economic and Social Council decides to authorize a three-day international expert group meeting on the theme "Indigenous peoples and forests", and requests that the results of the meeting be reported to the Permanent Forum at its tenth session, and to the United Nations Forum on Forests at its ninth session.

10-33457 (E) 290410

Please recycle

United Nations E/C.19/2010/L.9 (Part II)

Economic and Social Council

Distr.: Limited
28 April 2010

Original: English

Permanent Forum on Indigenous Issues
Ninth session
New York, 19-30 April 2010

Draft report

Rapporteur: Ms. Paimaneh **Hasteh**

Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

Recommendations of the Permanent Forum

Future work

1. The Permanent Forum on Indigenous Issues has analysed and discussed indigenous fishing rights in the seas on the basis of a report submitted by the Special Rapporteurs. As a result of those discussions, the Forum considers the protection of the material basis of the culture of indigenous peoples to be a part of international law that should be applied also to fishing rights in the seas, and recommends that States in which indigenous peoples live in coastal areas recognize indigenous peoples' right to fish in the seas on the basis of historical use and international law. In that context, the Forum notes the ongoing consultations between the Government of Norway and the Sami Parliament and recommends that the Government recognize the right of the coastal Sami to fish in the seas on the basis of historical use and international law.

2. The Permanent Forum decides that Forum members Lars-Anders Baer, Bartolomé Clavero, Salvador Michael Dodson and Carsten Smith shall prepare a paper that responds to the comments made by certain Member States on the annex to the report of the Permanent Forum on its eighth session (E/2009/43) at the general segment of the substantive session of the Economic and Social Council, in July 2009.

3. The Permanent Forum recommends that the summit on the Millennium Development Goals address directly all of the recommendations on the Goals made by the Forum, in particular the recommendation that States take concrete steps to

10-33367 (E) 290410

Please recycle

audit and review their plans and policies in order to ensure that they are consistent with, and promote and protect, the human rights of indigenous peoples, in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

4. The Permanent Forum recommends that indigenous peoples' organizations, particularly those concerned with indigenous women and young people, participate fully in the design, implementation, monitoring and evaluation of policies and programmes related to the Millennium Development Goals. This includes participation in the preparations for the summit on the Millennium Development Goals through national consultation processes and in decision-making on the proposed summit outcome.

5. The Permanent Forum takes note of the recommendations contained in the following reports:

(a) Report of the international expert group meeting on indigenous children and youth in detention, custody, foster care and adoption;

(b) Study on the impacts of the global economic crisis on indigenous peoples;

(c) Report on indigenous peoples and corporations;

(d) Study on indigenous fishing rights in the seas;

(e) Study to determine the impact of climate change adaptation and mitigation measures on reindeer herding;

(f) Study on consideration and recognition of Mother Earth rights;

(g) Study to determine whether climate change policies and projects adhere to the standards in the Declaration on the Rights of Indigenous Peoples;

(h) Preliminary study on the impact on indigenous peoples of the international legal construct known as the Doctrine of Discovery, which has served as the foundation for the violation of their human rights.

6. The Permanent Forum decides to reappoint Victoria Tauli-Corpuz as Special Rapporteur to complete a study on the impacts of the global crisis on indigenous peoples by 31 December 2010 and submit it to the Permanent Forum at its tenth session, in 2011.

7. The information and material presented in the preliminary study of the international construct known as the Doctrine of Discovery indicates the need for further study and review and for a more comprehensive assessment and exploration of the issues raised therein on violations of indigenous peoples' inherent rights, particularly as recognized in the United Nations Declaration on the Rights of Indigenous Peoples.

8. The Permanent Forum decides that the special theme for its eleventh session, in 2012, will be "The Doctrine of Discovery: its enduring impact on indigenous peoples and the right to redress for past conquests (articles 28 and 37 of the United Nations Declaration on the Rights of Indigenous Peoples)".

9. The Permanent Forum decides to hold a half-day discussion at its tenth session, in 2011, on the theme "The right to water".

10. The Permanent Forum notes the progress made by the United Nations Development Programme (UNDP) Regional Initiative on Indigenous Peoples' Rights and Development and the International Labour Organization (ILO) Programme to Promote ILO Convention No. 169 (PRO-169) projects in the promotion and protection of the rights of indigenous peoples. The Forum welcomes the decision by UNDP to establish a similar programme in Latin America and calls on UNDP to expand its activities in this manner in Africa.

11. The Permanent Forum recommends that adequate and sustained funding and other support be provided to the aforementioned projects of UNDP and ILO and that they be replicated in different regions of the world.

12. The Permanent Forum takes note of the report submitted by the International Indian Treaty Council and the Food and Agriculture Organization of the United Nations on the three-year field-testing programme for the cultural indicators for food security, food sovereignty and sustainable development, which included the input of more than 450 indigenous representatives from 66 indigenous communities and peoples in five countries. The Forum recognizes the importance of such collaborative programmes undertaken jointly by United Nations agencies and indigenous peoples, and calls upon members of the Inter-Agency Support Group and Member States and agencies to develop and apply the cultural indicators in accordance with their mandates, in collaboration with indigenous peoples.

13. The Permanent Forum recommends that interested parties organize an international expert group meeting on the theme "Indigenous peoples: sacred plants and sites, Articles 11, 24 and 31 of the United Nations Declaration on the Rights of Indigenous Peoples", and requests that the conclusions of such a meeting be submitted to the Forum at its tenth session.

14. The Permanent Forum welcomes the convening of the first Latin American Regional Meeting on the Right to Consultation and Free, Prior and Informed Consent, to be held in September 2010 with the participation of ILO, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur.

15. The Permanent Forum welcomes the joint initiative of the United Nations Environment Programme (UNEP), the Association of World Reindeer Herders, and the International Centre for Reindeer Husbandry aimed at assessing the impacts of land-use change and climate change on nomadic pastoralists and on their adaptation options and opportunities, focusing on taiga reindeer herding in the Russian Federation, Mongolia and China, and yak herding in the Himalayas. The objective of the project is to increase the resilience and capacity to adapt to climate change of the nomadic communities while building partnerships between reindeer- and yak-herding communities, strengthening local institutions and increasing the capacity of nomadic herders to engage in land-use and natural resource management.

16. The Permanent Forum calls on the Inter-American Development Bank to establish an advisory council of indigenous peoples to implement its strategy on indigenous peoples.

17. The Permanent Forum appointed Lars-Anders Baer, a member of the Forum, as a Special Rapporteur to undertake a study on the impacts on reindeer herding and on traditional indigenous economies and land management of the cumulative effects of land fragmentation, natural resource exploration, diminishing land and associated

rights, together with the multiple effects of climate change, to be completed by 31 December 2010.

18. The Permanent Forum decides to appoint Paimaneh Hasteh, a member of the Forum, as a Special Rapporteur to conduct an analysis on the duty of the State to protect indigenous peoples affected by transnational corporations and other business enterprises, to be submitted to the Forum at its eleventh session, in 2012.

19. The Permanent Forum decides to appoint Lars-Anders Baer, a member of the Forum, as a Special Rapporteur to undertake a study on the status of implementation of the Chittagong Hill Tracts Accord of 1997, to be completed by 31 December 2010 and submitted to the Forum at its tenth session.

20. The Permanent Forum decides to appoint as a Special Rapporteur Elisa Canqui Mollo, a member of the Forum, to conduct a study on forced labour and indigenous peoples, to be completed by 31 December 2010 and submitted to the Forum at its tenth session.

21. The Permanent Forum decides to appoint Victoria Tauli-Corpuz, a member of the Forum, as a Special Rapporteur to prepare a study on indigenous peoples and forests, to be completed by 31 December 2010 and submitted to the Forum at its tenth session.

22. The Permanent Forum expresses its deep appreciation to the sponsors of the screening of the movie *Avatar*, which took place during the ninth session and was arranged by the secretariat of the Forum. The Forum would also like to thank Mr. James Cameron, the director of the movie, for his presence at the screening and for his participation in the panel discussion that was held after the screening. The Forum also welcomes Mr. Cameron's support for indigenous film-makers and his offer to assist them in future.

23. The Permanent Forum endorses the report and recommendations of the international expert group meeting on the theme "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples" (E/C.19/2010/14) and the reflection paper of the Inter-Agency Support Group on Indigenous Issues, entitled "Indigenous peoples: development with culture and identity in the light of the United Nations Declaration on the Rights of Indigenous Peoples" (E/C.19/2010/17), prepared by the United Nations Educational, Scientific and Cultural Organization on the special theme of the ninth session.

Indigenous peoples and corporations

24. The Permanent Forum calls upon States to implement the recommendations of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Special Representative of the Secretary-General on business and human rights regarding extractive industries, resolving issues on the basis of dialogue, engagement and in particular the fundamental principles of human rights and the rights of indigenous peoples.

25. The Permanent Forum urges States to review their policies on biofuel industries, which, in the name of remedying the impacts of climate change, are resulting in the deforestation of large forest areas and the displacement of indigenous peoples. That increases the vulnerability of indigenous communities and in particular of those living in voluntary isolation.

26. The Permanent Forum invites extractive industry corporations to engage in a constructive dialogue with the Forum with a view to the elaboration of concrete plans to strengthen corporate social responsibility and respect for the rights of indigenous peoples, in particular the principle of the free, prior and informed consent of those affected by the activities of such corporations.

27. The Permanent Forum decides to reappoint Elisa Canqui Mollo, Carlos Mamani Condori and Pavel Sulyandziga as Special Rapporteurs, to complete their report on corporations and indigenous peoples by 31 December 2010 and to submit it to the Forum at its tenth session.

28. The Permanent Forum recommends that the Special Representative of the Secretary-General on business and human rights and the United Nations Global Compact unite their efforts in cooperation with the Forum, engaging with the private sector on issues related to indigenous peoples, including the promotion of the United Nations Declaration on the Rights of Indigenous Peoples and its implementation.

Half-day discussion on indigenous peoples and forests

29. The issue of indigenous peoples and forests was the focus of a half-day discussion during the ninth session of the Permanent Forum. Many indigenous peoples live in forests that are their traditional territories. Their way of life and traditional knowledge has developed in tune with the forests on their lands and territories. Indigenous peoples who live in forest areas have clearly defined rights to land and natural resources, including communal ownership of their ancestral lands, management of the natural resources on their territories, the exercise of their customary laws, and the capacity to represent themselves through their own institutions.

30. Unfortunately, States have considered indigenous peoples' forests as State-controlled forests and converted them for other uses such as logging, agribusiness plantations and mineral, oil and gas extraction. Such encroachments often force indigenous peoples out of their territories. Furthermore, some conservation schemes that establish national parks and wilderness reserves deny forest-dwelling indigenous peoples their rights.

31. The Permanent Forum recommends that States recognize the right of indigenous peoples to own, control, use and have access to their forests, and calls on States to reform their laws and policies that deny indigenous peoples that right. The Forum is gravely concerned about the continuing eviction of indigenous peoples from their forests and calls on States and the United Nations system and other intergovernmental organizations to protect and respect the rights of forest-dwelling and forest-dependent indigenous peoples and to provide redress to those whose rights have been violated.

32. The Permanent Forum welcomes the decision taken by the General Assembly in its resolution 61/193 to declare 2011 the International Year of Forests. The Forum calls on the United Nations Forum on Forests to work closely with the secretariat of the Permanent Forum to ensure the full participation of indigenous peoples in the design and implementation of the activities planned for the International Year of Forests, including the implementation of the recommendations referred to in paragraph 23 above.

33. As part of its mandate on the environment, the Permanent Forum has raised concerns and made recommendations pertaining to indigenous peoples and forests.

The Forum has consistently recommended that the United Nations Forum on Forests and forest-related United Nations bodies develop effective means to monitor and verify the participation of indigenous peoples in forest policymaking and sustainable forest management, and establish a mechanism, with the participation of indigenous peoples, to assess the performance of governmental and intergovernmental commitments and obligations to uphold and respect indigenous peoples' rights (see E/C.19/2004/23).

34. The Permanent Forum recommends that forests that have been taken by States from indigenous peoples without their free, prior and informed consent in the name of conservation policies be restored immediately.

35. The Permanent Forum welcomes the announcement during this session of the Conservation Initiative on Human Rights by eight global conservation organizations — the International Union for the Conservation of Nature and Natural Resources, the World Wide Fund for Nature/World Wildlife Fund, Fauna and Flora International, Wetlands International, BirdLife International, the Nature Conservancy, the Wildlife Conservation Society and Conservation International — which aims to promote the integration of human rights in conservation policy and practice, based on their common interest in promoting positive links between conservation and rights of people to secure their livelihoods, enjoy healthy and productive environments and live with dignity. The Forum recommends that these conservation organizations ensure the full participation of indigenous peoples in the implementation of the Initiative. The Forum further recommends that conservation organizations that have projects that have led to the eviction of indigenous peoples from their forests provide redress to such victims.

36. The Permanent Forum welcomes the presence of the Minister of the Environment and International Development of Norway and the side event organized by the Government of Norway, at which the Minister held an interactive dialogue with indigenous peoples and others on the Oslo-Paris Initiative on REDD-plus. The Forum recommends that the Initiative ensure the inclusion and the full and effective participation of indigenous peoples and that it not remain as an initiative of Governments only. The Forum further recommends that the Initiative ensure the implementation of the safeguards contained in the report of the Ad Hoc Working Group on long-term cooperative action under the United Nations Framework Convention on Climate Change on its eighth session (FCCC/AWGLCA/2009/17) which stresses the need to respect the knowledge and rights of indigenous peoples, noting the adoption of the United Nations Declaration on the Rights of Indigenous Peoples; the need for the full and effective participation of indigenous peoples, the non-conversion of natural forests for other uses, and the conservation of biological diversity; and the need to address the drivers of deforestation and land tenure issues.

37. The Permanent Forum recommends that Governments and States promote the creation of conditions for indigenous peoples that will enable them to maintain the forests in their traditional way and conserve their cultural identity, with priority accorded to indigenous peoples in voluntary isolation, strengthening their capacities and highlighting the value of ancestral knowledge related to native forests. The Forum further recommends that the traditional knowledge and traditional forest management practices and governance systems of indigenous peoples for the protection and use of their forests be recognized in all forest policies and climate-related forest initiatives, including REDD-plus.